

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

UNITED STATES OF AMERICA

V.

CLOIS RABORN

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NO. 4:22-CR-00066-O

DEFENDANT'S SECOND MOTION TO CONTINUE SENTENCING

TO THE HONORABLE REED O'CONNOR,
DISTRICT JUDGE, NORTHERN DISTRICT OF TEXAS:

COMES NOW, Clois Glenn Raborn (Defendant), by and through his attorney of record, Cody L. Cofer (Counsel), and files this motion to continue sentencing. Defendant moves the Court to continue the sentencing hearing currently scheduled for September 16, 2022, and extend the deadline for sentencing motions and materials. **Counsel requests a continuance and extension of 30 days.** As grounds for continuance and in support thereof, Defendant would show the Court:

1. The Court has scheduled sentencing for September 16, 2022. (ECF 34).
2. Counsel recognizes the Court may become frustrated by the requested continuance. The continuance is primarily sought because Counsel has been unable to coordinate access to Mr. Raborn by a defense expert. The delay has been caused by the scheduling conflicts of the retained expert and the difficulties with the facilities holding Mr. Raborn. Even if Counsel must retain a new expert, Counsel is committed to completing the required investigation, evaluation, and pleadings within the requested continuance. Counsel regrets the delay and appreciates the Court's patience. This is a

summary timeline of the defense efforts to arrange for the expert access to

Mr. Raborn:

1. 4/4/22 – Counsel has vetted the available experts and made contact with the retained expert to confirm availability;
 2. 4/5/22 – Counsel attempted to schedule a meeting with the expert;
 3. 4/6/22 – Counsel attempted to schedule a meeting with the expert;
 4. 4/8/22 – The retained expert messaged regarding dates for a meeting;
 5. 4/11/22 – Funds were sent to retain expert;
 6. 4/11/22 – Court issued order for access of expert;
 7. 4/11/22 – Provided order for access to expert;
 8. 7/19/22 – Expert deposits/cashes check for services;
 9. 7/19/22 – Counsel contacted expert again to facilitate access (one of multiple attempts);
 10. 8/5/22 – Expert’s office communicates about scheduling visit with client;
 11. 8/5/22 – Expert’s office emails Johnson County Sheriff Office (JCSO);
 12. 8/10/22 – Because no response by JCSO, expert begins calling JCSO—despite Court’s order, the JCSO indicates no access without approval of United States Marshal’s Service;
 13. 8/11/22 – Counsel emailed to USMS Guckert;
 14. 8/16/22 – Expert’s office emails about getting expert access on 8/19;
 15. 8/16/22 – Counsel called USMS multiple times;
 16. 8/16/22 – Counsel sent email attempting to get expert into Johnson County Jail;
 17. 8/16/22 – received approval from USMS Guckert; and
 18. 9/4/22 – received email from expert’s office indicating inability to meet with client and complete assessment before sentencing date.
3. Based on the current scheduling order, Counsel cannot effectively prepare nor effectively advocate for Defendant (despite exercising due diligence) at the final sentencing hearing because Counsel has been unable to draft appropriate sentencing pleadings and collect sentencing information within the time set forth in the scheduling order. Counsel moves for a continuance

to ensure effective representation of Defendant and to serve judicial economy.

4. Granting this motion shall serve the ends of justice. Granting this motion does not prejudice the defendant's or public interest in a speedy trial (to the extent the right applies to sentencing proceedings). Any prejudice to defendant's or public interest in a speedy trial is outweighed by the ends of justice served. Granting this motion will not likely make continuation of such proceedings impossible or result in the miscarriage of justice.
5. Counsel's past schedule and obligations support his motion:
 - a. On August 1, 2022, Counsel appeared for a pre-trial violation hearing in case 7:22-CR-011-O, *United States of America v. Anthony Anderson*, before the Honorable Judge Reed O'Connor, Northern District of Texas, Fort Worth Division;
 - b. On August 3, 2022, Counsel appeared for two initial appearances in cases 4:22-CR-00170-O, *United States of America v. Louie Walencik*, and 4:22-MJ-544, *United States of America v. Calvin Teague*, before the Honorable Magistrate Judge Jeffrey L. Cureton, Northern District of Texas, Fort Worth Division;
 - c. On August 22, 2022, Counsel was appointed to a new federal CJA case, 4:22-CR-234-P, *United States of America v. Zimmie Daniels*, before the Honorable Judge Mark T. Pittman, Northern District of Texas, Fort Worth Division;

- d. On August 24, 2022, Counsel had an initial brief deadline in case 22-10455, *United States v. Steven Riad Jalloul*, in the United States Court of Appeals for the Fifth Circuit;
 - e. On August 25, 2022, Counsel appeared for a detention hearing in case, 4:22-CR-234P, *United States of America v. Zimmie Daniels*, before the Honorable Judge Mark T. Pittman, Northern District of Texas, Fort Worth Division;
 - f. On August 26, 2022, Counsel had an initial brief deadline in case 22-10341, *United States of America v. Leonardo Cruz*, in the United States Court of Appeals for the Fifth Circuit; and
 - g. On September 2, 2022, Counsel had an initial brief deadline in case 22-10224, *United States of America v. Pedro Rodriguez*, in the United States Court of Appeals for the Fifth Circuit.
6. Defendant moves the Court to continue the sentencing hearing until such time as Counsel can be present and properly prepared.

Future Conflicts

7. Counsel for Defendant has the following upcoming conflicts:
- a. On September 8, 2022, Counsel has a detention hearing scheduled in *United States of America v. Lionel Henderson*, in case 7:22-CR-0027-O, before the Honorable Judge Reed O'Connor, Northern District of Texas, Wichita Falls Division;

- b. On September 19, 2022, Counsel is scheduled for jury trial in case 3:20-CR-565-B-8, *United States of America v. Richard Quiroga*, before the Honorable Judge Jane J. Boyle, Northern District of Texas, Dallas Division;
- c. On September 20, 2022, Counsel is scheduled for the final sentencing hearing in case 4:21-CR-211-Y, *United States of America v. Cuedell Henry*, before the Honorable Judge Terry R. Means, Northern District of Texas, Fort Worth Division;
- d. On September 26, 2022, Counsel is scheduled for the final sentencing hearing in case 6:20-CR-00074-JFH, *United States of America v. Jason Nathaniel Holland*, before the Honorable Judge John F. Heil III, Eastern District of Oklahoma;
- e. On September 30, 2022, Counsel is scheduled for the final sentencing hearing in case 7:22-CR-011-O, *United States of America v. Anthony Anderson*, before the Honorable Judge Reed O'Connor, Northern District of Texas, Fort Worth Division;
- f. On October 3, 2022, Counsel is scheduled for jury trial in case 4:22-CR-234-P, *United States of America v. Zimmie Daniels*, before the Honorable Judge Mark T. Pittman, Northern District of Texas, Fort Worth Division;
- g. On October 11, 2022, Counsel is scheduled for jury trial in case 4:22-CR-00170-O, *United States of America v. Louie Walencik*, before the

Honorable Judge Reed O'Connor, Northern District of Texas, Fort Worth Division;

- h. On October 11, 2022, Counsel is scheduled for two final sentencing hearings in cases, 4:20-CR-00269-Y, *United States of America v. Eric Prescott Kay*, and 4:22-CR-00035-Y, *United States of America v. William McGlothlin*, before the Honorable Judge Terry R. Means, Northern District of Texas, Fort Worth Division;
- i. On October 13, 2022, Counsel is scheduled for the final sentencing hearing in case 4:22-CR-093-P, *United States of America v. Christopher Anderson*, before the Honorable Judge Mark T. Pittman, Northern District of Texas, Fort Worth Division;
- j. On October 24, 2022, Counsel is scheduled for jury trial in case 6:21-CR-00151-TDD, *United States of America v. Billy Menees*, before the Honorable Judge Timothy D. DeGiusti, Eastern District of Oklahoma;
- k. On October 25, 2022, Counsel is scheduled for the final sentencing hearing in case 4:20-CR-00034-Y, *United States of America v. Paulette Salvant*, before the Honorable Judge Terry R. Means, Northern District of Texas, Fort Worth Division;
- l. On November 4, 2022, Counsel is scheduled for the final sentencing hearing in case 4:22-CR-141-O, *United States of America v. Michael*

Colson, before the Honorable Judge Reed O'Connor, Northern District of Texas, Fort Worth Division; and

m. On November 7, 2022, Counsel is scheduled for jury trial in case 1:21-CR-00112-MAC-ZHJ-6, *United States of America v. Willis Reed*, before the Honorable Judge Marcia A. Crone, Eastern District of Texas, Beaumont Division;

WHEREFORE PREMISES CONSIDERED, Defendant prays that in the above referenced and entitled cause, the Court continue the sentencing.

Respectfully submitted,

/s/Cody L. Cofer

Cody L. Cofer

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Attorney for Defendant

CERTIFICATE OF CONFERENCE

I hereby certify that on September 7, 2022, I conferred with the attorney for the Government. The Government does not object to this motion.

/s/Cody L. Cofer

CERTIFICATE OF SERVICE

I hereby certify that on September 7, 2022, I electronically filed the foregoing document with the clerk for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. The electronic case filing system sent a “Notice of Electronic Filing” to the attorney for the Government.

/s/ Cody L. Cofer

Cody L. Cofer

Attorney for Defendant